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INTERNAL COMMERCE COMMISSIONRAILROAD EQUIPMENT LEASE

THIS AGREEMENT, made this 6th day of November, 1974, between GENERAL MOTORS CORPORATION (Electro-Motive Division), a corporation of the State of Delaware, hereinafter called "Lessor" and ILLINOIS CENTRAL GULF RAILROAD COMPANY - - - - -, a corporation of the State of Delaware, hereinafter called "Lessee";

WITNESSETH:

WHEREAS, Lessor has in process of construction and nearing completion at its plant in McCook, Illinois, Forty (40) 2000 H.P. GP38-2 Locomotives - - - - -, bearing Lessee's road numbers 9600 thru 9639 (both inclusive), (hereinafter referred to as the "Locomotives") pursuant to Lessee's Purchase Order signed Proposal #74646 dated April 3, 1974 (hereinafter referred to as the "Purchase Agreement"); that the construction of said Locomotives is in accordance with the terms of said Purchase Agreement.

WHEREAS, Lessee intends to have the Locomotives accepted under a permanent plan of financing the terms of which will not permit acceptance of the Locomotives under such permanent plan at the time part or all of the Locomotives are scheduled for delivery by the Lessor.

NOW, THEREFORE, IT IS AGREED AS FOLLOWS:

1. The terms of the said Purchase Agreement are by reference made a part of this Agreement as fully as though expressly set forth herein.

2. Lessor agrees to lease to Lessee and Lessee hereby hires from Lessor each of the said Locomotives for use upon the lines of railroad owned or operated by Lessee upon and subject to the terms and conditions hereinafter set forth. It is understood that this Lease is intended only as an interim arrangement until Lessee has acquired permanent financing. For the use of each Locomotive, Lessee shall pay to Lessor or its assigns upon bill rendered by Lessor or its assigns, a daily rental computed on the basis of a 360 day year, at the minimum commercial lending rate, charged from time to time by Morgan Guaranty Trust Company of New York for loans in New York City to responsible and substantial borrowers, on the purchase price of each Locomotive, which shall be \$311,351.45 for each Model GP38-2 Locomotive, the purchase price being subject to adjustment as provided for in the Purchase Agreement. Such rental shall accrue from and including the respective dates of delivery and acceptance until the termination of this Agreement as provided in paragraph 10 hereof. The initial rental charged with respect to any Locomotive shall be based upon the minimum commercial lending rate of Morgan Guaranty Trust Company of New York in effect on the first day of the month during which such Locomotive was delivered; provided, however, that in the case of the first Locomotive delivered hereunder and any other locomotive delivered during the same month the initial rental charged with respect thereto shall be based on the minimum commercial lending rate of Morgan Guaranty Trust Company of New York in effect on the date of delivery and acceptance of such first Locomotive. Upon any change in such minimum commercial lending rate the rental will be adjusted effective on the 1st day of the month following such change. Such rental shall be due and payable on the first day of the month next succeeding the date of delivery and acceptance and monthly thereafter on the first day of each succeeding month.

3. Lessor will deliver the Locomotives leased hereunder on tracks of Lessee at a point to be designated by the Lessee, with freight charges collect, during the months of November and December, 1974, subject to any delays caused by fires, strikes or other causes beyond the reasonable control of Lessor. The shipment of the Locomotives shall be routed as requested by the Lessee. Each of the Locomotives shall be inspected upon arrival at said place of delivery under this Agreement by an authorized representative of Lessee, and if found to conform to said specifications, a certificate of inspection and acceptance of delivery thereof under this Agreement shall be furnished to Lessor by Lessee.

4. In contemplation of the subsequent delivery of the Locomotives to be made under a permanent plan of financing pursuant to the Purchase Agreement, Lessee will throughout the term of this Agreement keep and maintain plainly, distinctly, permanently and conspicuously marked on each side of each of said Locomotives, in letters not less than one inch in height, the following legend:

OWNED BY A BANK OR TRUST COMPANY UNDER A SECURITY
AGREEMENT FILED UNDER INTERSTATE COMMERCE ACT,
SECTION 20C.

For convenience of identification of the leasehold interest hereunder of Lessee in the Locomotives, the Locomotives may be lettered _____

ILLINOIS CENTRAL GULF
or in some other appropriate manner. Lessee or any third party or parties acquiring an interest in the Locomotives by reason of the conditional sale, equipment trust or other financing of the purchase price of the Locomotives by Lessee, shall not by virtue of this Agreement or the possession and use of the Locomotives by Lessee under or pursuant to this Agreement or of anything permitted to be done by Lessee hereunder in respect of the Locomotives, acquire any title to or ownership of the Locomotives, or any thereof, and the title to or ownership of the Locomotives shall remain solely in Lessor. It is understood that the proposed plan of permanent financing contemplates that the Lessee shall have the right to claim the investment tax credit and depreciation in connection with the purchase and ownership of the Locomotives. Lessor and/or Lessor's assignees agree that they will not claim investment tax credit nor depreciation in connection with the Locomotives in the event the purchase is consummated.

5. The Locomotives are leased by Lessor and hired by Lessee hereunder for use by Lessee only upon tracks in the possession or control of Lessee and Lessee agrees that it will, while the Locomotives, or any thereof, are in its possession under this Agreement use the same only upon such tracks and will not remove same therefrom.

6. From and after the time of delivery of the Locomotives to Lessee, and until their surrender and re-delivery to Lessor under this Agreement, the possession, use, operation and maintenance of the Locomotives shall (subject to the provisions of paragraph 15 hereof) be at the sole risk and expense of Lessee and Lessee will assume and shall be solely responsible for, and shall indemnify and save harmless Lessor from and against (a) any and all loss or damage, usual wear and tear excepted, of or to the Locomotives, and (b) any and all claims, demands, suits, judgments or causes of action for or on account of injury to or death of persons other than Lessor's representatives, agents, or employees, or loss or damage to property, which may result from or grow in any manner out of the presence, use or operation of the Locomotives while in the possession of Lessee under this Agreement.

7. Lessee shall comply with all laws and regulations of any state or governmental authority respecting the manner of using or operating the Locomotives, or any thereof, during the term of this Agreement.

8. Lessee shall maintain and keep said Locomotives in good order and repair at all times, subject to the right of the Lessor to inspect the condition and supervise the maintenance thereof, and in accordance with Lessor's recommendations in any case affecting the repair parts, quality of fuel oil and lubricating oil, the fitness of the Locomotives for operation in any class or type of service different from that for which designed or offered and which might involve the possible impairment of the Locomotives due to overloading or other abuses, and any other factors material to and necessary for the proper maintenance and operation of said Locomotives. Lessee shall not effect any change in the design, construction or specifications of the Locomotives, body or power plant equipment or component parts thereof, without the written authority and approval of Lessor.

9. Lessee agrees promptly to pay any and all taxes or other assessments which may be imposed upon or in respect of said Locomotives by reason of or in connection with Lessee's possession or use of the Locomotives under this Agreement. It is understood, however, that the Lessee shall not be required to pay or discharge any such tax so long as it shall, in good faith and by appropriate legal proceedings, contest the validity thereof in any reasonable manner which will not affect or endanger the title and interest of the Lessor in and to the Locomotives.

10. The term of this Agreement including the obligation of Lessee to pay the rental provided in paragraph 2 hereof shall in respect of each of said Locomotives be for the period beginning on the date of delivery of such Locomotive to Lessee under this Agreement and terminate on a date simultaneous with settlement for and payment of the full purchase price of each of such Locomotives under a permanent plan of financing, or on August 1, 1975, whichever event shall first occur. Lessee's obligation to purchase the Locomotives under the Purchase Agreement or to provide a purchaser therefor on or before August 1, 1975, at the purchase price on which rental payments hereunder are based, shall be absolute, regardless of the condition thereof at such time.

11. All or any of the rights, benefits and advantages of the Lessor, including the right to receive payment of rental for, or the purchase price of, any Locomotive or any other payments under this agreement, may be assigned by the Lessor and reassigned by any assignee at any time and from time to time, provided, however, that no such assignment shall subject any such assignee to any of the Lessor's warranties, indemnities or any of its other obligations contained in this Agreement or any other agreement relating to the Locomotives. In the event the Lessor assigns its rights to receive any payments under this Agreement and the Lessee receives written notice thereof from the Lessor, together with a counterpart of such assignment, stating the identity and post office address of the assignee, all payments thereafter to be made by the Lessee under this Agreement shall, to the extent so assigned, be made to the assignee against proper receipt therefor in form satisfactory to the Lessee.

12. In the event of any assignment by Lessor of its rights to receive any payments under this Agreement, the rights of such assignee to such

payments as may be assigned, together with any other rights hereunder which can be and are so assigned, shall not be subject to any defense, set-off, counterclaim or recoupment whatsoever arising out of any breach of any obligation of the Lessor in respect of the Locomotives or the manufacture, construction, delivery, guaranty or warranty thereof or in respect of any indemnity contained in this Agreement, nor subject to any defense, set-off, counterclaim or recoupment whatsoever arising by reason of any other indebtedness or liability at any time owing to the Lessee by the Lessor. Any and all such obligations howsoever arising shall be and remain enforceable by the Lessee, its successors and assigns only against the Lessor, its successors and assigns (other than assignees as such, of rights, benefits, or advantages assigned pursuant to this Agreement).

13. It is expressly understood and agreed, and the Lessor expressly agrees, warrants and guarantees that, upon due and full payment of all payments provided to be made by the Lessee under this Agreement, Lessor shall thereupon execute and deliver to the Lessee, or to the party designated by the Lessee in writing, a bill of sale in customary form with full warranty of title, free and clear of all liens with respect to such Locomotives and, upon request of the Lessee's counsel, the Lessor shall also thereupon furnish to such counsel any reasonable evidence showing that, despite any assignment permitted under this Agreement, Lessor owns and has full title, free and clear of all liens, to such Locomotives at the time such bill of sale is executed and delivered.

14. Lessee will, with all convenient speed and at its expense, upon execution and delivery of this Agreement and the first assignment of any of Lessor's rights hereunder, cause this Agreement and said assignment to be duly filed, registered or recorded in conformity with Section 20c of the Interstate Commerce Act, and in such other place or places as Lessor may reasonably request for the protection of its title.

15. Lessor warrants to the original user that the Locomotive is of the kind and quality described in the specification referred to herein and is suitable for the ordinary purposes for which such equipment is used.

Lessor further warrants the Locomotive to be free from defects in material and workmanship which may develop under normal use and service within two years from date of delivery or before the Locomotive has been operated 250,000 miles whichever event shall first occur. Lessor agrees to correct such defects, which examination shall disclose to Lessor's satisfaction to be defective, by repair or replacement F.O.B. factory and such correction shall constitute fulfillment of Lessor's obligation with respect to such defect under this warranty.

Lessor warrants specialties not of its own specification or design to the same extent that the Suppliers of such specialties warrant such items to Lessor.

There are no warranties, expressed or implied, made by Lessor except the warranties set out above.

16. This Agreement may be simultaneously executed in two or more counterparts each of which so executed shall be deemed to be an original and such counterparts, together, shall constitute but one and the same agreement, which shall be sufficiently evidenced by any such original counterpart.

17. This Agreement shall be construed in accordance with the laws of the State of Illinois; provided, however, that the parties shall be entitled to all rights conferred by Section 20c of the Interstate Commerce Act and by the recordation provisions of any other Act pursuant to which this Agreement is recorded.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their respective officers thereunto duly authorized and their corporate seals to be hereto affixed as of the day and year first above written.

GENERAL MOTORS CORPORATION
(Electro-Motive Division)

By Harold Smith
Vice President

ATTEST:

W. A. Thomas
Assistant Secretary

ILLINOIS CENTRAL GULF RAILROAD COMPANY

By Harry C. Miller
VICE PRESIDENT-MATERIALS MANAGEMENT

ATTEST:

J. B. Goodil

APPROVED AS TO FORM	
Real Estate	_____
Accounting	_____
Law	<u>Robert R. Fowler</u>
EXECUTION	
Law	_____

STATE OF ILLINOIS)
COUNTY OF COOK) ss.

On this 6th day of November, 1974, before me personally appeared Harold L. Smith to me personally known, sho, being by me duly sworn, says that he is a Vice President of General Motors Corporation, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Zula C. Clair
Notary Public

My Commission Expires: July 11, 1976

STATE OF ILLINOIS)
COUNTY OF COOK) ss.

On this 12th day of NOVEMBER, 1974, before me personally appeared HARRY C. MILLER to me personally known, who, being by me duly sworn, says that he is a VICE PRESIDENT of ILLINOIS CENTRAL GULF RAILROAD, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the foregoing instrument was the free act and deed of said corporation.

W. E. Herzog
Notary Public

My Commission Expires: Jan. 20, 1978

RECORDED 770

NOTARY PUBLIC
INTERNATIONAL COMMERCE COMMISSION

ASSIGNMENT

KNOW ALL MEN BY THESE PRESENTS, That:

WHEREAS, General Motors Corporation (Electro-Motive Division) (the "Manufacturer"), a Delaware corporation, and ILLINOIS CENTRAL GULF RAILROAD COMPANY - - - - - a corporation of the State of Delaware (the "Railroad"), have heretofore entered into a certain agreement (the "Lease"), dated as of November 6, 1974, for the lease and sale by Manufacturer and hire and purchase by the Railroad of certain railroad equipment (the "Locomotives"), to wit:

Forty (40) 2000 H.P. GP38-2 Locomotives bearing Railroad's road numbers 9600 thru 9639 (both inclusive)

upon the terms and conditions, and for the rental and purchase price, as in and by the Lease provided; and

WHEREAS, pursuant to Section 14 of the Lease the Railroad has agreed to duly file and record this Assignment and the Lease as therein provided, for the protection of the right, title and interest of the parties to this Assignment and the Lease; and

WHEREAS, Morgan Guaranty Trust Company of New York, a New York corporation, with its office and place of business in the City of New York (the Assignee), has agreed, subject to the terms and conditions set forth in a certain Commitment Agreement dated November 6, 1974, between the Manufacturer and the Assignee, to buy the Manufacturer's rights under the Lease;

NOW, THEREFORE, for value received and upon the terms and conditions hereinafter set forth

1. The Manufacturer does hereby sell, assign, transfer and set over to the Assignee all of the right, title and interest of the Manufacturer in the Locomotives and in and to the rentals payable by the Railroad with respect to the Locomotives and in and to the payment by the Railroad of the purchase price of the Locomotives under the Lease and all other rights under the Lease except the right to construct and deliver the Locomotives and the right to be indemnified as provided in paragraphs 6 and 9 of the Lease if and to the extent that the Manufacturer incurs liabilities to which any such indemnity applies but without limiting the right of Assignee to the protection afforded by any such indemnity. In furtherance of this assignment and transfer, the Manufacturer does hereby authorize and empower the Assignee in its own name to sue

for, collect, receive and enforce all payments to be made and compliance on the part of the Railroad with the terms and provisions of the Lease.

2. The ~~Manufacturer~~ warrants and covenants that it is the lawful owner of all of the rights in and title to said Locomotives under the Lease; that it has good and lawful right to sell and assign the same and that its right and title thereto are free from all liens and encumbrances and that notwithstanding this Assignment, it will perform and comply with each and all of the covenants and conditions in the Lease set forth to be complied with by the Manufacturer and not intended to be transferred by this Assignment.

3. The Manufacturer represents and warrants that the Lease has been duly authorized and executed by it and covenants that it will notify the Railroad in writing of this Assignment and that it will from time to time, at the request of the Assignee, make, execute and deliver all such further instruments of assignment, transfer and assurance and do such further acts and things in the premises, to give effect to the provisions hereof and more perfectly to confirm the right, title and interest hereby assigned and transferred to the Assignee or intended so to be.

4. The Manufacturer represents and warrants that no modification of the terms of the Lease will be made without the written consent of the Assignee.

IN WITNESS WHEREOF the Manufacturer has caused this instrument to be executed by its proper officer hereunto duly authorized and its corporate seal to be hereunto affixed as of the 6th day of November, 1974.

GENERAL MOTORS CORPORATION
(Electro-Motive Division)

By Harold J. Smith
Vice President

ATTEST:

W. H. Thomas
Assistant Secretary

APPROVED AS TO FORM	
Real Estate	_____
Accounting	_____
Law	_____
EXECUTION	
Law	_____

STATE OF ILLINOIS)
COUNTY OF COOK) SS

On this 6th day of November, 1974, before me personally appeared Harold L. Smith, to me personally known, who being by me duly sworn, says that he is a Vice President of General Motors Corporation, the corporation named in the foregoing instrument, that the seal affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal on the day and date in my certificate above written.

Zula C. Clair
Notary Public

My commission expires July 11, 1976.